

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND THE
TOWN OF SAHUARITA

THIS AGREEMENT is entered into February 18, 2003, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF SAHUARITA acting by and through its MAYOR and TOWN COUNCIL (the "Town")

I. RECITALS

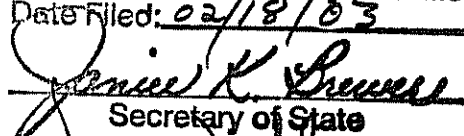
1 The State is empowered by Arizona Revised Statutes Section 28-6993(g) to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2 The Town is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the Town

3 The State has approved the exchange of \$413,100.00 in Highway User Revenue Funds (HURF) in Fiscal Year 2003 to the Town for the design of improvements to La Canada Drive, from Duval Road to Sahuarita Road. Such funds will be repaid to the State by withholding in Fiscal Year 2003 Federal apportionment funds of \$487,780.00, which includes \$459,000.00 in Federal obligation authority, from the Pima Association of Governments (PAG). Funding in the amount of \$306,000.00 received by the Town from PAG is to be used before HURF exchange funds are expended.

4 The State has approved the exchange of \$3,135,600.00 in Highway User Revenue Funds (HURF) in Fiscal year 2005 to the Town for the construction of improvements to La Canada Drive, from Duval Road to Sahuarita Road. Such funds will be repaid to the State by withholding in Fiscal Year 2005 Federal apportionment funds of \$3,702,451.00, which includes \$3,484,000.00 in Federal obligation authority, from PAG.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows

NO. 25812
Filed with the Secretary of State
Date Filed: 02/18/03

Secretary of State

By: Vicky D. Groenewald

II. SCOPE OF WORK

1. The Town will:

- a Provide design of the improvements contemplated for La Canada Drive. Provide the State suitable documentation of design together with invoices.
- b Provide design plans, specifications and such other documents and services required for construction bidding and construction.
- c Call for bids and award one or more for design contracts for the project. Administer same, and make all payments to the consultants(s). Be responsible for any additional funds required, and for any consultant claims for extra compensation due to delays or whatever reason. Comply with all applicable State laws, rules and regulations.
- d Invoice the State at thirty, sixty, and ninety percent of the design completion stage of the project.
- e Invoice the State for the remaining ten percent of the design cost upon submittal of bid ready plans, specifications, and estimate to the State.
- f Call for bids and award one or more construction contracts for the project. Administer same and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project, and for any contractor claims for extra compensation due to delays or whatever reason.
- g Invoice the State at thirty, sixty, and ninety percent of the construction stage of the project.
- h Invoice the State for the remaining ten percent of the project cost at the one hundred percent project completion stage after the Town, PAG, and the State representatives have completed final project review.
- i Upon completion, approve and accept the project as complete and provide maintenance. Provide the State with a letter documenting the notice of the approval and acceptance of the project.

2. The State will:

- a In Federal fiscal year 2003 and within 30 days after receipt and approval of a design invoice, pay the Town HURF funds in accordance with section II, 1d. and 1e.
- b Withhold in Fiscal Year 2003 federal apportionment funds of \$487,780.00, which includes \$459,000.00 in Federal obligation authority, from the Pima Association of Governments (PAG).
- c In Federal Fiscal Year 2005 and within 30 days after receipt and approval of a project construction invoice, pay the Town HURF funds in accordance with section II, 1g, and 1h.
- d Withhold in Fiscal Year 2005 Federal apportionment funds of \$3,702,451.00, which includes \$3,484,000.00 in Federal obligation authority, from PAG.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The Town assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the Town and that the Town hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the Town, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation or attorneys' fees.

2. This agreement shall remain in force and effect until completion of said project, provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental entity, may be canceled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.

5. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

6. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows.

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007
FAX (602) 712-7424

Town of Sahuarita
Town Manager
Box 879
Sahuarita, AZ 85629

8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written

TOWN OF SAHUARITA

By 
ZACHERY FREELAND
Mayor

STATE OF ARIZONA

Department of Transportation

By 
SUSAN TELLEZ
CONTRACT ADMINISTRATOR

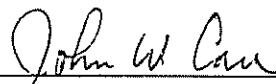
ATTEST

By 
SANDRA OLIVAS
Town Clerk

RESOLUTION

BE IT RESOLVED on this 28th day of August, 2002, that I, the undersigned VICTOR M. MENDEZ, as Director of the ARIZONA DEPARTMENT OF TRANSPORTATION, have determined that it is in the best interests of the STATE OF ARIZONA that the DEPARTMENT OF TRANSPORTATION, acting by and through the TRANSPORTATION PLANNING DIVISION, to enter into an agreement with the Town of Sahuarita, for the purpose of the exchange of \$413,100.00 in Highway User Revenue Funds (HURF) to the County for the construction of improvements to La Canada Drive, for the benefit and safety of the traveling public.

Therefore, authorization is hereby granted to draft said agreement, which, upon completion, shall be submitted to the Acting Division Director of Transportation Planning Division for approval and execution.



JOHN W. CARR, P.E., Staff Engineer
Development / Intermodal Transportation Division
for VICTOR M. MENDEZ, Director

SAHUARITA RESOLUTION NO. 2003-11

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF SAHUARITA, ARIZONA, AUTHORIZING THE TOWN TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA TO PROVIDE ADDITIONAL FUNDING FOR THE DESIGN AND CONSTRUCTION OF IMPROVEMENTS TO LA CANADA DRIVE FROM DUVAL MINE ROAD TO SAHUARITA ROAD.

WHEREAS, A.R.S. § 9-240(B)(3) authorizes the Town to exercise exclusive control over the streets of the Town, to improve them, and to vacate or abandon them; and

WHEREAS, the Town and the State of Arizona wish to cooperate in the Town's improvement of La Canada Drive from Duval Mine Road to Sahuarita Road; and

WHEREAS, the staffs of the Town and the State have developed an Intergovernmental Agreement to provide additional funding Design and Construction of Improvements to La Canada Drive from Duval Mine Road to Sahuarita Road, which is attached hereto as Exhibit "A" and incorporated herein by this reference; and

WHEREAS, the terms of the Intergovernmental Agreement require the State to contribute \$431,100.00 in Fiscal Year 2002/2003 and \$3,135,600.00 in Fiscal Year 2004/2005 in Highway User Revenue Funds to the improvement project; and

WHEREAS, A.R.S. § 11-952 grants the Town the authority to enter into intergovernmental agreements; and

WHEREAS, the Mayor and Council have determined that approval of the Intergovernmental Agreement is in the best interest of the Town and its residents.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Sahuarita, Arizona, as follows:

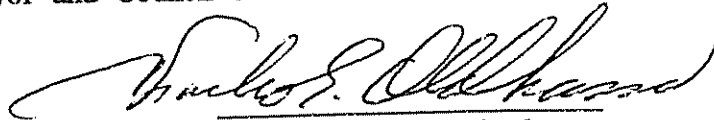
- Section 1.** The Town is hereby authorized to enter into the Intergovernmental Agreement Between the State of Arizona and the Town of Sahuarita to provide additional funding for Design and Construction of Improvements to La Canada Drive from Duval Mine Road to Sahuarita Road, attached hereto as Exhibit "A" and incorporated herein by this reference.
- Section 2.** The Mayor of the Town of Sahuarita is hereby authorized to execute said intergovernmental agreement.
- Section 3.** The Town staff is hereby authorized to take all steps necessary to implement said

COPY

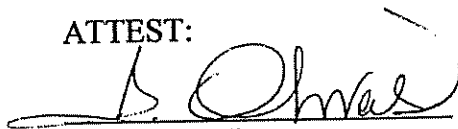
intergovernmental agreement and give it effect.

Section 4. All orders or resolutions in conflict herewith are, to the extent of such conflict, hereby repealed, and this resolution shall be in full force and effect immediately upon its adoption.

PASSED AND ADOPTED by the Mayor and Council of the Town of Sahuarita, Arizona, this 27th day of January, 2003.


Mayor Zachery Freeland

ATTEST:


Sandra R. Olivas
Town Clerk

APPROVED AS TO FORM:

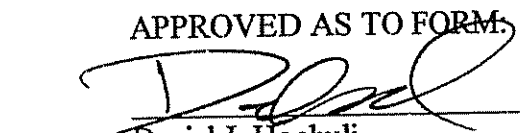

Daniel J. Hochuli
As Town Attorney
and not personally

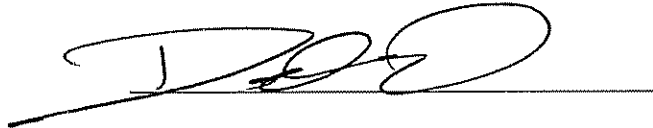
Exhibit "A"

**Intergovernmental Agreement Between the State of Arizona and the Town of Sahuarita for the
Design and Construction of Improvements to La Canada Drive from Duval Mine Road to
Sahuarita Road**

APPROVAL OF THE TOWN OF SAHUARITA ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the TOWN OF SAHUARITA and declare this agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 27 day of JANUARY, 20015

A handwritten signature in black ink, consisting of a stylized 'J' followed by several loops and a long horizontal stroke at the end.

Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE 602.542.8855


INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR02-1683TRN (JPA 02-084), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED February 11, 2003.

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section